

**Town of Sunset Beach  
Board of Adjustment Meeting  
February 24, 2015**

**MINUTES**

**Members Present:** Robert Forrester, Chairman; Peter Scott, Vice-Chairman; Members James Strandquist; Pete Larkin; and Gene Allen

**Staff Present:** Susan Parker, Town Administrator; Rawls Howard, Planning Director; Randy Walters, Building Inspector; Dustin Graham, Public Works Director; Cindy Nelson, Administrative Assistant and Lisa Anglin, Board of Adjustment (BOA) Clerk.

**Attorney Present:** Jerry Mannen, Board of Adjustment Attorney

**Call to Order, Quorum Determined, Meeting Declared Open, Chairperson's Welcome and Pledge of Allegiance to the United States**

Chairman Forrester called the meeting to order. Lisa Anglin, BOA Clerk conducted a roll call to establish that a quorum was present. Chairman Forrester read a welcome statement to those in attendance. The Pledge of Allegiance was recited. Chairman Forrester advised that the Hearing is being recorded and the audio will serve as the verbatim transcript.

**Approval of November 20, 2014 Minutes**

VICE-CHAIRMAN SCOTT MADE A MOTION TO APPROVE THE NOVEMBER 20, 2014 MINUTES AS PRESENTED. MEMBER LARKIN SECONDED THE MOTION. CHAIRMAN FORRESTER CALLED FOR A VOTE AND THE MOTION CARRIED BY UNANIMOUS VOTE.

**Swearing In of Staff**

Lisa Anglin, BOA Clerk officiated the swearing in of Town Staff Members Susan Parker, Rawls Howard, and Randy Walters.

**Continuances or Withdrawals**

BOA-15-02; Lance and Lou Ann Jackson seek relief of 5' feet of the 5' foot rear yard setback requirement on the property located at 304 North Shore Drive East, in order to construct an addition to the residence.

Rawls Howard advised that Mr. & Mrs. Jackson have requested a continuance to May 5, 2015 at 9:00 am.

VICE-CHAIRMAN SCOTT MADE A MOTION TO GRANT THE JACKSON CONTINUANCE TO MAY 5, 2015 AT 9:00 AM. MEMBER ALLEN SECONDED THE MOTION. CHAIRMAN FORRESTER CALLED FOR A VOTE AND THE MOTION CARRIED BY UNANIMOUS VOTE.

## **Old Business**

None

## **New Business**

Variance Parcel #256ND00301 - BOA-15-03; Dave Nelson, Contractor/Agent for property owners Glenn and Nancy Evans

Rawls Howard reviewed the Variance Application received from Dave Nelson, Contractor/Agent for Glenn and Nancy Evans seeking relief of the 12' side yard setback requirement for a corner lot and requesting a 5' side yard setback as required for an interior lot, both for the lot located at 1201 North Shore Drive East.

Lisa Anglin, BOA Clerk officiated the swearing in of Dave Nelson.

Mr. Nelson advised the Board that the lot at 1201 North Shore Drive is a unique parcel as the dirt roadway extends along the length of the lot and dead-ends at the Feeder Channel and thereby is not a through street. Mr. Nelson noted that both the surveyor and the house designer used a 5' side yard setback implying that the lot was not thought to be a true corner lot. Mr. Nelson provided, with the application, letters from several of the adjacent property owners acknowledging no opposition to the variance request.

### **Public Comments**

MEMBER ALLEN MADE A MOTION TO OPEN THE PUBLIC COMMENT PERIOD CONCERNING THE VARIANCE REQUEST FOR PARCEL 256ND00301. VICE-CHAIRMAN SCOTT SECONDED THE MOTION. CHAIRMAN FORRESTER CALLED FOR A VOTE AND THE MOTION CARRIED BY UNANIMOUS VOTE.

Chairman Forrester called for comments. No comments heard.

MEMBER STRANDQUIST MADE A MOTION TO CLOSE THE PUBLIC COMMENT PERIOD CONCERNING THE VARIANCE REQUEST FOR PARCEL 256ND00301. VICE-CHAIRMAN SCOTT SECONDED THE MOTION. CHAIRMAN FORRESTER CALLED FOR A VOTE AND THE MOTION CARRIED BY UNANIMOUS VOTE.

### **Deliberation and Finding of Facts**

VICE-CHAIRMAN SCOTT MADE A MOTION TO OPEN THE BOARD DISCUSSION PERIOD CONCERNING THE VARIANCE REQUEST FOR PARCEL 256ND00301. MEMBER ALLEN SECONDED THE MOTION. CHAIRMAN FORRESTER CALLED FOR A VOTE AND THE MOTION CARRIED BY UNANIMOUS VOTE.

The Board deliberated and establish the following:

1. Practical difficulties and unnecessary hardships will result from carrying out the strict letter of this ordinance.
2. Unnecessary hardship will result from the strict application of the ordinance to the property in that the applicant will not be able to build the same type of house on the applicant's lot as is usually and customarily built on fifty foot (50') wide lots.

Variance Parcel #256ND00301 - BOA-15-03; Dave Nelson, Contractor/Agent for property owners Glenn and Nancy Evans (Cont.)

3. The hardship results from conditions that are peculiar to the property and unique circumstances related to the applicant's property in that the side street on the corner of the property is unpaved, has a forty foot (40') right of way, and is not truly a through street based on the configuration.
4. The hardship results from the strict application of the ordinance to the property because although technically a "corner lot" the property is not really a corner lot because the street (Cobia Street) is unpaved, not a through street, and ends contiguous with the property line of the subject property at the canal. The reduced size of the setback will not impact traffic or safety.
5. The hardship is not the result of the applicant's own actions because the lot exists as part of a previous approved and platted subdivision.
6. The variance is in harmony with the general purpose, spirit and intent of the ordinance such that public safety is secured and substantial justice is achieved. The ordinance is designed to provide for maximum safety of the public and maximum use of the property without negatively impacting the neighborhood, which this variance request does.
7. The granting of the variance assures the public safety and welfare and does substantial justice in that it allows for a reasonable use of the property and complies with sight triangle requirements for public safety.

VICE-CHAIRMAN SCOTT MADE A MOTION TO CLOSE THE DISCUSSION PERIOD. MEMBER STRANDQUIST SECONDED THE MOTION. CHAIRMAN FORRESTER CALLED FOR A VOTE AND THE MOTION CARRIED BY UNANIMOUS VOTE.

MEMBER LARKIN MADE A MOTION TO GRANT THE VARIANCE REQUEST FOR A 5' SIDE YARD SETBACK ON PARCEL 256ND00301. MEMBER STRANDQUIST SECONDED THE MOTION. CHAIRMAN FORRESTER CALLED FOR A VOTE AND THE MOTION CARRIED BY UNANIMOUS VOTE.

**Recess/Reconvene**

VICE-CHAIRMAN SCOTT MADE A MOTION TO RECESS THE MEETING FOR 15 MINUTES. MEMBER LARKIN SECONDED THE MOTION. CHAIRMAN FORRESTER CALLED FOR A VOTE AND THE MOTION CARRIED BY UNANIMOUS VOTE.

The Board recessed at 10:45 am and reconvened at 11:00 am. Chairman Forrester called the meeting to order and Lisa Anglin, BOA Clerk conducted a roll call to establish that a quorum was present.

Chairman Forrester acknowledged the Town's Legal Counsel, Grady Richardson and Susan Renton, and the Appellant's Legal Counsel Kenneth Shanklin and Matthew Nichols.

## **Administrative Appeal**

### **Palm Cove Property Owners Seek Administrative Appeal – BOA File #15-01**

Rawls Howard reviewed the Administrative Appeal Application received from Steve D. Saieed, Agent for Palm Cove Owners Association, Inc., Port City Advisors, LLC; Long Leaf Pine, LLC, Bobby W. Harrelson, and Exum Family, LLC, the Owners of Lots 2 - 10 in the Palm Cove Subdivision, seeking a reversal of the findings, conclusions, and determination of the Town's Administrator denying the Owners their request to build swimming pools and dune crossovers on and for each of their lots in the Palm Cove Subdivision. Attorney Shanklin advised that Thunder Road LLC, owner of Palm Cove Subdivision Lot 1 requests to be included in the appeal. The Board granted the request of Thunder Road LLC to be included in the appeal.

### **Presentation of Evidence**

Attorney Richardson distributed a notebook containing the parties' stipulated Record of Appeal and Index to each Board Member and Attorneys Shanklin and Nichols. The contents of the Record of Appeal and Index had been previously reviewed by the Appellant's Attorneys. The group reviewed the Record of Appeal and the Index.

The Board heard opening statements from Attorney Richardson and Attorney Shanklin.

The Board received into evidence the following:

- Exhibit 1, the Town's one-page chronology and summary of Town's evidence and facts
- Exhibit 2, the Affidavit of Perry Davis, PLS, PE
- Sworn witness testimony from:
  - Susan R. Parker, Sunset Beach Town Administrator
  - Randall Walters, Sunset Beach Building Inspector and CAMA Officer
  - Sandy Wood, former Sunset Beach UDO Administrator
  - Steve Tanhouser, Palm Cove property owner
  - Perry Davis, Engineer with Cape Fear Engineering

On December 17, 2014, Susan Parker, interim Town Unified Development Ordinance (UDO) Administrator, denied the request from the Palm Cove Property Owners to acknowledge vested rights for Lots 1 – 10 of the Palm Cove Subdivision.

The parties presented their evidence and arguments through witness testimony and documentary evidence.

### **Public Comments**

VICE CHAIRMAN SCOTT MADE A MOTION TO OPEN THE PUBLIC COMMENT PERIOD CONCERNING THE SUBJECT ADMINISTRATIVE APPEAL REQUEST. MEMBER STRANDQUIST SECONDED THE MOTION. CHAIRMAN FORRESTER CALLED FOR A VOTE AND THE MOTION CARRIED BY UNANIMOUS VOTE.

Lisa Anglin, BOA Clerk officiated the swearing in of Tim Jackson.

Public Comments (Cont.)

Tim Jackson, North Shore Drive – Advised the Board that he is a Sunset Beach property owner on Jinks Creek and he has a pool on his lot which faces the Palm Cove Subdivision, and he is also a realtor and a builder. Mr. Jackson expressed that the Palm Cove lots are more than an acre in size and should be allowed to have pools since pools are allowed on much smaller lots on the island; advised that pools increase property values and thinks that vested rights should be granted.

VICE-CHAIRMAN SCOTT MADE A MOTION TO CLOSE THE PUBLIC COMMENT PERIOD CONCERNING THE ADMINISTRATIVE APPEAL REQUEST. MEMBER ALLEN SECONDED THE MOTION. CHAIRMAN FORRESTER CALLED FOR A VOTE AND THE MOTION CARRIED BY UNANIMOUS VOTE.

Recess

VICE CHAIRMAN SCOTT MADE A MOTION TO RECESS THE HEARING UNTIL MONDAY, MARCH 2, 2015 AT 9:00 AM. MEMBER LARKIN SECONDED THE MOTION. CHAIRMAN FORRESTER CALLED FOR A VOTE AND THE MOTION CARRIED BY UNANIMOUS VOTE.

**Town of Sunset Beach  
Board of Adjustment Meeting (Continuation)  
March 2, 2015**

**Members Present:** Robert Forrester, Chairman; Peter Scott, Vice-Chairman; Members James Strandquist; Pete Larkin; and Gene Allen

**Staff Present:** Susan Parker, Town Administrator; Rawls Howard, Planning Director; Randy Walters, Building Inspector; Dustin Graham, Public Works Director; Cindy Nelson, Administrative Assistant and Lisa Anglin, Board of Adjustment (BOA) Clerk.

**Attorneys Present:** Jerry Mannen, Board of Adjustment Attorney; Town's Legal Counsel, Grady Richardson and Susan Renton, and the Appellant's Legal Counsel Kenneth Shanklin and Matthew Nichols

**Call to Order, Quorum Determined, Meeting Declared Open, Chairperson's Welcome and Pledge of Allegiance to the United States**

Chairman Forrester called the meeting to order. Lisa Anglin, BOA Clerk conducted a roll call to establish that a quorum was present. Chairman Forrester read a welcome statement to those in attendance. The Pledge of Allegiance was recited. Chairman Forrester advised that the Hearing is being recorded and the audio will serve as the verbatim transcript.

Chairman Forrester advised that this meeting is a continuation of the hearing that began on February 24, 2015 concerning the Administrative Appeal sought by the Palm Cove Owners of Lots 1 through 10 from the denial to acknowledge their statutory vested rights.

Chairman Forrester reviewed the events from the February 24, 2015 meeting including the attorneys' opening statements and presentations of the evidence, sworn witness testimony heard and cross examined, and the public comments made. Chairman Forrester advised that the Board will now hear the attorneys' closing statements and the Board will then deliberate and make their ruling.

Deliberation and Finding of Facts

MEMBER LARKIN MADE A MOTION TO OPEN THE BOARD DISCUSSION PERIOD CONCERNING THE SUBJECT ADMINISTRATIVE APPEAL REQUEST. VICE-CHAIRMAN SCOTT SECONDED THE MOTION. CHAIRMAN FORRESTER CALLED FOR A VOTE AND THE MOTION CARRIED BY UNANIMOUS VOTE.

The Board's findings are as set forth in its' written decision dated April 3, 2015 and filed April 13, 2015 and said written Decision is incorporated herein.

VICE CHAIRMAN SCOTT MADE A MOTION TO CLOSE THE BOARD DISCUSSION PERIOD CONCERNING THE ADMINISTRATIVE APPEAL REQUEST. MEMBER ALLEN SECONDED THE MOTION. CHAIRMAN FORRESTER CALLED FOR A VOTE AND THE MOTION CARRIED BY UNANIMOUS VOTE.

VICE CHAIRMAN SCOTT MADE A MOTION TO DENY THE PALM COVE PROPERTY OWNERS' ADMINISTRATIVE APPEAL AND TO UPHOLD THE UDO ADMNINISTATOR'S DECEMBER 17, 2014 DETERMINATION. MEMBER STRANDQUIST SECONDED THE MOTION. CHAIRMAN FORRESTER CALLED FOR A VOTE AND THE MOTION CARRIED BY UNANIMOUS VOTE.

Chairman Forrester advised that the next Board of Adjustment meeting will be held on May 5, 2015.

VICE CHAIRMAN SCOTT MADE A MOTION TO ADJOURN. MEMBER STRANDQUIST SECONDED THE MOTION. CHAIRMAN FORRESTER CALLED FOR A VOTE AND THE MOTION CARRIED BY UNANIMOUS VOTE.

TOWN OF SUNSET BEACH

*Robert Forrester, Chairman*

Submitted by:

*Lisa K. Anglin, BOA Clerk*

\*The February 24, 2015 Board of Adjustment minutes were approved during the June 10, 2015 meeting.

